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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,652	02/15/2005	Robert Dickinson	HAS4-68918	6486
24201	7590	11/30/2007	EXAMINER	
FULWIDER PATTON LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE, TENTH FLOOR LOS ANGELES, CA 90045			KOYAMA, KUMIKO C	
ART UNIT		PAPER NUMBER		
2876				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/500,652	DICKINSON ET AL.
	Examiner	Art Unit
	Kumiko C. Koyama	2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 June 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>0604</u> .	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

Preliminary Amendment received on June 30, 2004 has been acknowledged.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 16, 17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Bravman et al (US 5,393,965).

Re claim 16: Bravman discloses an identifying two-dimensional bar code 1215 that is conventionally applied to each cereal box by printing or other suitable means (col 13, lines 15-18). Fig. 12 shows that the cereal box 1210 is contained within a carton 1205. Such identifying two-dimensional bar code 1215 is a primary label provided on an article contained within a container holding a plurality of articles. Fig. 12 also shows another identifying two-dimensional bar code 1250, and Bravman discloses that similarly, an identifying two-dimensional bar code 1250 is applied to each carton 1205 of cereal boxes 1210 (col 13, lines 21-24). Such two-dimensional bar code 1250 is a secondary label provided on the outside of container. Bravman discloses that the two-dimensional bar code preferably contains identifying information such as one or more of: the type of cereal, the cereal lot number, and Cereal Co's name and address (col 13, lines 18-22). Because both two-dimensional barcodes are encoded with same information,

there exists an association between information contained in the secondary label and the properties of the primary label.

Re claim 17: Since both two-dimensional bar codes are encoded with the same information, the secondary label is related to the information encoded by the label attached to at least one article packaged at a predetermined location within the container.

Re claim 19: Since both two-dimensional bar codes are encoded with the same information, there exists an association in the data content of each primary label and the secondary label.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bravman in view of Wang (US 5,113,445).

Re claims 1 and 6: Bravman discloses an identifying two-dimensional bar code 1215 that is conventionally applied to each cereal box by printing or other suitable means (col 13, lines 15-18). Fig. 12 shows that the cereal box 1210 is contained within a carton 1205. Such identifying two-dimensional bar code 1215 is a primary label provided on an article contained within a container holding a plurality of articles. Fig. 12 also shows another identifying two-dimensional bar code 1250, and Bravman discloses that similarly, an identifying two-dimensional bar code

1250 is applied to each carton 1205 of cereal boxes 1210 (col 13, lines 21-24). Such two-dimensional bar code 1250 is a secondary label provided on the outside of container. Bravman discloses that the two-dimensional bar code preferably contains identifying information such as one or more of: the type of cereal, the cereal lot number, and Cereal Co's name and address (col 13, lines 18-22). Because both two-dimensional barcodes are encoded with same information, there exists an association between information contained in the secondary label and the properties of the primary label.

Bravman fails to teach determining one or more properties of an at least one primary label or of an article to which at least one primary label is, or is to be, attached. Bravman also fails to teach encoding at least a secondary label.

Wang discloses entering alphanumeric and graphic data into the decoding means (col 4, lines 34-35). Wang discloses that the entering means 22 may take forms other than a keyboard such as an optical scanning means for scanning data directly from documents for entry into the encoding means 12 (col 4, lines 37-39). The data to be encoded into the pattern of graphic indicia is stored in a first memory, in processor 34 (col 4, lines 52-54), and the processor unit 34 encodes the data in the first memory into a two-dimensional pattern of graphic indicia (col 4, lines 58-60). Printer transfers an image of the two-dimensional pattern of graphic indicia on carrier means 18 (col 4, line 67-col 5, line 1).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Wang to the teachings of Bravman such that duplicate labels can easily be made by scanning the first bar code into the encoding machine

to create a second bar code. Such modification avoids the need to manually re-enter the same information, and therefore, provides a faster processing device.

Re claims 2 and 7: Since both two-dimensional bar codes are encoded with the same information, the secondary label is related to the information encoded by the label attached to at least one article packaged at a predetermined location within the container.

5. Claims 3-5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bravman in view of Wang as applied to claims 1 and 6 above, and further in view of Lapstun et al (US 7,286,113). The teachings of Bravman as modified by Wang have been discussed above.

Bravman as modified by Wang fails to teach that the label acts as a presence indicator. Bravman as modified by Wang also fails to teach that one or more properties determined represents positional properties of the or each label, or the article to which the or each label is, or is to be, attached.

Lapstun discloses that each page of the form including a plurality of coded data tags, each coded data tag being indicative of an identity of the form and a position of the tag on the form (col 48, lines 50-55).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrated the teachings of Lapstun to the teachings of Bravman as modified by Wang such that the label can be accurately read in the correct position in order to make the reading process faster.

6. Claims 10-12, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bravman in view of Wang as applied to claim 6 above, and further in view of Peterson (US 4,260,881). The teachings of Bravman as modified by Wang have been discussed above.

Bravman as modified by Wang fails to teach that the label comprises remotely detectable magnetic material and comprises low coercivity, high permeability magnetic material. Bravman also fails to teach an interrogation field comprising an ac field arranged so as to be parallel with a preferred axis of permeability of the magnetic material.

Peterson discloses memory element label, 1, wherein the ferromagnetic substance is comprised of two thin layers 5 and 6. 5 may be of ferromagnetic material that has relatively high permeability and low coercivity as 131 (col 8, lines 22-30). Peterson also discloses that the invention is for tagging objects to permit selective detection of tagged objects depending upon the activation state of the label (Abstract). In the second form of biasing, a high frequency ac-bias of sufficient strength to magnetically saturate the particles of the tape in either direction is applied (col 3, lines 55-60). To activate a memory element label, parallel lines of magnetic saturation and domain alignment were provided along the long dimension of the label by means of parallel current lines along the short dimension of the label (col 12, lines 53-57).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Peterson to the teachings of Bravman as modified by Wang such that reading of the object can be done without opening of the carton which enables confirmation of the item even after packing the carton.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bravman in view of Wang as applied to claim 6 above, and further in view of Dames et al (US 6,371,379). The teachings of Bravman as modified by Wang have been discussed above.

Bravman as modified by Wang fails to teach an interrogation field comprising a high amplitude, low frequency scanning field and a low amplitude, high frequency field.

Dames discloses the applied field comprises two components, the first being a high frequency, low amplitude field (not shown separately but evident from the form of field H); and the second being a low frequency, high amplitude field--represented in FIG. 3 by the triangular waveform L (col 6, lines 28-35).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrated the teachings of Dames to the teachings of Bravman as modified by Wang such that reading of the object can be done without opening of the carton which enables confirmation of the item even after packing the carton.

8. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bravman in view of Lapstun. The teachings of Bravman have been discussed above.

Bravman fails to teach that the label represents positional properties of the label or the article to which the label is attached, within the container.

Lapstun discloses that each page of the form including a plurality of coded data tags, each coded data tag being indicative of an identity of the form and a position of the tag on the form (col 48, lines 50-55).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrated the teachings of Lapstun to the teachings of Bravman such that the label can be accurately read in the correct position in order to make the reading process faster.

9. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bravman in view of Peterson. The teachings of Bravman have been discussed above.

Bravman fails to teach that the label comprises remotely detectable magnetic material and comprises low coercivity, high permeability magnetic material.

Peterson discloses memory element label, 1, wherein the ferromagnetic substance is comprised of two thin layers 5 and 6. 5 may be of ferromagnetic material that has relatively high permeability and low coercivity as 131 (col 8, lines 22-30). Peterson also discloses that the invention is for tagging objects to permit selective detection of tagged objects depending upon the activation state of the label (Abstract).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrated the teachings of Peterson to the teachings of Bravman such that reading of the object can be done without opening of the carton which enables confirmation of the item even after packing the carton.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bravman in view of Wang.

Bravman shows in Fig. 12 a one dimensional bar code 1215 and 1250.

Bravman fails to teach that the primary label is provided with a simpler code than the secondary label.

Wang discloses entering alphanumeric and graphic data into the decoding means (col 4, lines 34-35). Wang discloses that the entering means 22 may take forms other than a keyboard such as an optical scanning means for scanning data directly from documents for entry into the encoding means 12 (col 4, lines 37-39). The data to be encoded into the pattern of graphic indicia is stored in a first memory, in processor 34 (col 4, lines 52-54), and the processor unit 34 encodes the data in the first memory into a two-dimensional pattern of graphic indicia (col 4,

lines 58-60). Printer transfers an image of the two-dimensional pattern of graphic indicia on carrier means 18 (col 4, line 67-col 5, line 1).

Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrated the teachings of Wang to the teachings of Bravman such that a one-dimensional bar code can be easily converted into a two-dimensional barcode by optically reading the one-dimensional code, which provides a faster input.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bravman et al, U.S. Patent No. 5,646,389, discloses a barcode on a cereal box and a barcode on a carton containing the cereal box.

Blanford et al, U.S. Patent No. 6,158,660, discloses a primary label and a supplemental label.

Blanford et al, U.S. Patent No. 6,722,568, discloses a primary label and a supplemental label.

Peoples, Jr., U.S. Patent No. 6,098,892, discloses a barcode label on a product and a barcode label on shrink wrapped package.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kumiko C. Koyama whose telephone number is 571-272-2394. The examiner can normally be reached on Monday-Friday 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Kumiko C. Koyama*  
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November 26, 2007